THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.20230 of 2005

Dated 14th September 2005

Between:

Nazeer Miya S/o.Mohd.Khaja,

Occu:Driver, R/o.Kosgi, Mahaboobnagar Dist.

…Petitioner

and

The Regional Manager, APSRTC,

Mahaboobnagar Region & others

…Respondents

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O R D E R:

The petitioner is employed as a driver in APSRTC. He was issued a Charge Sheet, dated 6.6.1994, alleging that he caused accident, while driving the bus on 31.5.1994, and that he was required to submit the explanation, as to why necessary disciplinary action shall not be taken against him. The petitioner submitted his explanation to the same. On a consideration of the same, the 3rd respondent passed an order, dated 31.3.1995, imposing the penalty of stoppage of annual increment, for a period of one year, with cumulative effect. The petitioner preferred an appeal before the appellate authority, against that order, and it was rejected. Hence, this writ petition.

The only point urged by the learned counsel for the petitioner is that the 3rd respondent imposed the penalty of stoppage of annual increment, for a period of one year, with cumulative effect, without conducting departmental enquiry. He placed reliance upon the judgment of the Apex Court in ***KULWANTH SINGH GILL v. STATE***

OF PUNJAB and submits that stoppage of increment is a major penalty, and it cannot be imposed, except by conducting departmental enquiry.

Learned Standing Counsel for the respondents, on the other hand, submits that the penalty imposed against the petitioner itself is minimal, if the lapse on his part is taken into account.

It is a matter of record that the 3rd respondent imposed the penalty of stoppage of annual increment, for a period of one year, with cumulative effect, on the basis of the charges levelled against him. Though the charge sheet was issued to the petitioner, before the penalty was imposed, no departmental enquiry was conducted. In ***KULWANTH SINGH GILL's case*** (supra), the Supreme Court held that stoppage of increments, with cumulative effect, is a major penalty, and it cannot be imposed, except by conducting departmental enquiry. In view of the same, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside, leaving it open to the 3rd respondent to pass fresh orders. To avoid further delay and complication in the mater, this Court is of the view that the impugned order can be treated, as the one for stoppage of annual increment, without cumulative effect.

Hence, the writ petition is partly allowed, directing that the order, dated 31.3.1995, passed by the 3rd respondent, shall be treated as the one for stoppage of annual increment, for a period of one year, without cumulative effect, and that the petitioner shall not be entitled for any monetary benefits up to the date of this order. There shall be no order as to costs.

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14th September 2005

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